

REMARKS

By the above amendment, claim 10 has been amended to delete features thereof with the deleted features being presented in new dependent claim 13 and with claims 11 and 12 being amended to depend from claim 13.

As to the requirement for restriction to one of the inventions identified by the Examiner as Invention I - claims 1 - 9, drawn to a display device and Invention II - claims 10 - 12, drawn to a fabrication method of a display device, such restriction requirement is traversed insofar as it is applicable to the present claims, noting that by the present amendment, Invention II is considered to include claims 10 - 13.

In setting forth the requirement for restriction, the Examiner refers to MPEP §806.05(f) which is in terms of the process as claimed and the product as claimed. Irrespective of the Examiner's contention that in the instant case, the product as claimed can be made by another and materially different process, applicants submit that in light of the amendment of claim 10 of Invention II, the method as claimed in such claim of Invention II, as amended, is coextensive with the product as claimed in Invention I. Thus, the Examiner's comments concerning possibilities of different processes do not relate to the claimed subject matter, as amended, and therefore, applicants submit that the Examiner has failed to show distinctness in accordance with the requirements of MPEP §806.05(f), and the requirement for restriction should be withdrawn.

The Examiner has also set forth a requirement for election of a single disclosed species of the alleged patentably distinct species identified by the Examiner as Species I: embodiment disclosed on page 13, lines 11 - 26, relating to Fig. 1, claims 1 - 5; Species II: embodiment disclosed on page 16, lines 13 - 24, relating to Fig. 2, claims 6 - 7; and Species III: embodiment disclosed on page 21,

lines 15 - 27 through page 22, lines 1 - 9, relating to Fig. 8, claims 8 - 9; and such requirement for election of species is traversed and reconsideration and withdrawal of the requirement are requested.

The Examiner contends that no claim is generic, and applicants submit that, contrary to the Examiner's position, applicants submit that independent claim 1 of Species I, is considered to be generic or sub-generic with respect to independent claim 6 of Species II. That is, applicants submit that all features of claim 1 are included in claim 6, with claim 6 reciting further features. Thus, applicants submit that generic or sub-generic claims, which are readable on more than one species, as identified by the Examiner, are present in this application, and since claim 1 is not rejected, applicants submit that claim 1 is allowable, with the Examiner recognizing that upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species. Thus, applicants submit that the requirement for election of species is improper and should be withdrawn.

In order to provide a complete response to the election requirement, applicants provisionally elect, with traverse, Species I including claims 1 - 5 being readable thereon.

In view of the above amendments and remarks, reconsideration and withdrawal of the restriction requirement and election requirement are respectfully requested, and favorable action with respect to all claims present in this application is requested.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli,

Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 501.43139X00),
and please credit any excess fees to such deposit account.

Respectfully submitted,

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